

By: Hinojosa

S.B. No. 738

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the transfer or termination of certain timeshare
3 interests.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 221.003(b), Property Code, is amended to
6 read as follows:

7 (b) Timeshare properties located outside this state are
8 subject only to Subchapters C through H and J.

9 SECTION 2. Chapter 221, Property Code, is amended by adding
10 Subchapter J to read as follows:

11 SUBCHAPTER J. SERVICE AGREEMENTS TO TRANSFER OR TERMINATE A
12 TIMESHARE INTEREST

13 Sec. 221.101. TRANSFER OR TERMINATION OF TIMESHARE
14 INTEREST. In this subchapter:

15 (1) "Termination" with respect to a timeshare
16 interest:

17 (A) means:

18 (i) the release of contractual obligations
19 relating to a timeshare interest by the developer, association, or
20 managing entity; or

21 (ii) the invalidation of a timeshare
22 interest by a judgment or court order; and

23 (B) does not include the cancellation of a
24 purchase contract governed by Subchapter E.

1 (2) "Transfer" with respect to a timeshare interest
2 means the conveyance of all or substantially all of a timeshare
3 interest.

4 Sec. 221.102. APPLICABILITY. (a) This subchapter applies
5 to a timeshare interest if the timeshare interest has been acquired
6 only for the purchaser's personal, family, or household use and:

7 (1) the timeshare interest is owned by a resident of
8 this state;

9 (2) the timeshare property is located in this state;
10 or

11 (3) the timeshare interest acquired is in a multisite
12 timeshare plan required to be registered under Subchapter C.

13 (b) Except as provided by Subsection (c), this subchapter
14 applies to a person who:

15 (1) is acting in the ordinary course of business; and

16 (2) directly or indirectly, regardless of whether
17 acting in person, by mail, by telephone, or by any mode of Internet
18 or electronic communication, offers or advertises an offer to
19 engage in, for consideration, the following activities:

20 (A) obtaining or attempting to obtain on behalf
21 of a timeshare interest owner:

22 (i) a release of the owner's timeshare
23 interest from any person, including the developer, association, or
24 managing entity; or

25 (ii) a judgment or court order invalidating
26 the owner's timeshare interest;

27 (B) selling, renting, listing, or advertising a

1 timeshare interest on behalf of a timeshare interest owner;

2 (C) purchasing a timeshare interest from a
3 timeshare interest owner; or

4 (D) assisting in the transfer of an owner's
5 timeshare interest.

6 (c) This subchapter does not apply to:

7 (1) a license holder under Chapter 1101, Occupations
8 Code, acting as a broker, agent, or salesperson under that person's
9 license in connection with the transfer or termination of a
10 timeshare interest;

11 (2) a developer, association, or managing entity for a
12 timeshare interest to be transferred or terminated; or

13 (3) an attorney, title agent, title company, or escrow
14 company that:

15 (A) provides only closing, settlement, or other
16 specific transaction services in connection with the transfer or
17 termination of a timeshare interest; and

18 (B) does not otherwise engage in activities
19 described by Subsection (b).

20 Sec. 221.103. GENERAL DISCLOSURES REQUIRED. A person
21 subject to this subchapter who enters into an agreement with a
22 timeshare interest owner to facilitate the transfer or termination
23 of a timeshare interest shall provide to the timeshare interest
24 owner the following written disclosures, as applicable:

25 (1) the name, telephone number, and physical address
26 of the person providing services under the agreement and any
27 affiliate, agent, or third-party representative of that person;

1 (2) a description, legally sufficient for
2 identification, of the timeshare interest to be transferred or
3 terminated;

4 (3) a description of the method of transfer or
5 termination or a copy of the instrument that will be used for
6 transferring or terminating the timeshare interest;

7 (4) a description of any interest the timeshare
8 interest owner retains after the transfer;

9 (5) a description of the scope of a power of attorney
10 or other delegation of authority, if any, that the timeshare
11 interest owner is required to give to complete the transfer of the
12 timeshare interest;

13 (6) an itemized statement of any amounts the timeshare
14 owner is required to pay as consideration or reimbursement for
15 services provided in connection with the agreement;

16 (7) the name of each recipient of amounts described by
17 Subdivision (6);

18 (8) the estimated date for completing all services
19 sufficient to transfer or terminate the timeshare interest; and

20 (9) a statement that, on completion of the transfer or
21 termination of the timeshare interest, the person will give written
22 notice of the transfer or termination to:

23 (A) the developer, association, or managing
24 entity, as applicable; and

25 (B) if applicable, the exchange company for the
26 timeshare interest.

27 Sec. 221.104. DISCLOSURE OF AUTHORIZED USE OF TIMESHARE

1 INTEREST. (a) A person subject to this subchapter who enters into
2 an agreement with a timeshare interest owner to facilitate the
3 transfer or termination of a timeshare interest shall disclose in
4 writing to the timeshare interest owner the name of any person,
5 other than the timeshare interest owner, who may occupy, rent,
6 exchange, or otherwise use the timeshare interest during the term
7 of the agreement.

8 (b) If a person is authorized to occupy, rent, exchange, or
9 otherwise use the timeshare interest during the term of the
10 agreement, the agreement must state the name of each person
11 receiving consideration for the occupation, rent, exchange, or use
12 of the timeshare interest.

13 Sec. 221.105. DISCLOSURES RELATING TO PAYMENT OF FEES FOR
14 TRANSFER SERVICES. A person subject to this subchapter who enters
15 into an agreement with a timeshare interest owner to facilitate the
16 transfer of the timeshare interest must disclose in writing to the
17 timeshare interest owner that the timeshare interest owner is not
18 required to pay any consideration or reimbursement under the
19 agreement until the timeshare interest owner receives:

20 (1) a written acknowledgement from the developer, the
21 association, or the managing entity that the person facilitating
22 the transfer under the agreement complied with all applicable
23 policies, if any, governing the transfer of the timeshare interest;
24 and

25 (2) a copy of the instrument transferring the
26 timeshare interest, recorded, if required by applicable law, in the
27 real property records of the county in which the timeshare property

1 is located.

2 Sec. 221.106. REQUIRED NOTICE FOR TRANSFER SERVICES. A
3 person subject to this subchapter who enters into an agreement with
4 a timeshare interest owner to facilitate the transfer of the
5 timeshare interest must provide to the timeshare interest owner a
6 statement printed in 14-point boldface type or 14-point uppercase
7 typewritten letters that reads substantially similar to the
8 following:

9 I (name of the person facilitating the transfer) WILL ACT IN
10 GOOD FAITH AND IN A COMMERCIALY REASONABLE MANNER TO COMPLETE THE
11 TRANSFER OF OWNERSHIP OF YOUR TIMESHARE INTEREST NOT LATER THAN THE
12 180TH DAY AFTER THE DATE OF THIS AGREEMENT.

13 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH
14 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
15 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
16 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

17 IF THE TRANSFER OF YOUR TIMESHARE INTEREST IS NOT COMPLETED
18 BEFORE THE 180TH DAY AFTER THE DATE OF THIS AGREEMENT, YOU WILL
19 CONTINUE TO BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES
20 ASSOCIATED WITH YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR
21 SPECIAL ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

22 Sec. 221.107. REQUIRED NOTICE FOR TERMINATION SERVICES. A
23 person subject to this subchapter who enters into an agreement with
24 a timeshare interest owner to facilitate the termination of the
25 timeshare interest must provide to the timeshare interest owner a
26 statement printed in 14-point boldface type or 14-point uppercase
27 typewritten letters that reads substantially similar to the

1 following:

2 I (name of the person facilitating the termination of the
3 timeshare interest) WILL ACT IN GOOD FAITH AND IN A COMMERCIALY
4 REASONABLE MANNER TO COMPLETE THE TERMINATION OF YOUR TIMESHARE
5 INTEREST NOT LATER THAN THE 180TH DAY AFTER THE DATE OF THIS
6 AGREEMENT BY OBTAINING:

7 (1) A VALID AND ENFORCEABLE RELEASE FROM THE
8 DEVELOPER, ASSOCIATION, OR MANAGING ENTITY; OR

9 (2) A JUDGMENT OR COURT ORDER INVALIDATING THE
10 PURCHASE OR OWNERSHIP OF YOUR TIMESHARE INTEREST.

11 YOUR OBLIGATION TO PAY ALL COSTS AND FEES ASSOCIATED WITH
12 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
13 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES, DOES NOT CEASE BY
14 VIRTUE OF THE EXECUTION OF THIS AGREEMENT.

15 I CANNOT GUARANTEE THAT I WILL SUCCESSFULLY COMPLETE THE
16 TERMINATION OF YOUR TIMESHARE INTEREST. IF I FAIL TO COMPLETE THE
17 TERMINATION OF YOUR TIMESHARE INTEREST, YOU WILL CONTINUE TO BE
18 RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND FEES ASSOCIATED WITH
19 YOUR TIMESHARE INTEREST, INCLUDING ANY REGULAR OR SPECIAL
20 ASSESSMENTS OR REAL OR PERSONAL PROPERTY TAXES.

21 Sec. 221.108. RELIANCE. In making disclosures required by
22 this subchapter, a person facilitating the transfer or termination
23 of a timeshare interest may rely on written information provided by
24 the timeshare interest owner, the developer, the association, or
25 the managing entity.

26 Sec. 221.109. DUTY OF GOOD FAITH REGARDING TRANSFER OR
27 TERMINATION SERVICES. A person facilitating the transfer or

1 termination of a timeshare interest must act in good faith to
2 accomplish the transfer or termination not later than the 180th day
3 after the date the person enters into an agreement with the
4 timeshare interest owner.

5 Sec. 221.110. DECEPTIVE TRADE PRACTICES. A person subject
6 to this subchapter commits a false, misleading, or deceptive act or
7 practice within the meaning of Sections 17.46(a) and (b), Business
8 & Commerce Code, by engaging in any of the following acts:

9 (1) failing to disclose information as required by
10 this subchapter;

11 (2) making false or misleading statements concerning:

12 (A) the existence of an offer related to the
13 purchase or rent of a timeshare interest;

14 (B) the likelihood of the completion or the time
15 necessary to complete any sale, rental, transfer, or termination of
16 a timeshare interest;

17 (C) the value of a timeshare interest;

18 (D) the current or future costs, including
19 assessments, maintenance fees, or taxes, of owning a timeshare
20 interest;

21 (E) the method by which or source from which a
22 timeshare interest owner's name, address, telephone number, or
23 other contact information was obtained;

24 (F) the identity of the person providing services
25 to facilitate the transfer or termination of a timeshare interest
26 or any affiliate, agent, or third-party representative of that
27 person;

1 (G) the terms and conditions under which services
2 to facilitate a transfer or termination of a timeshare interest are
3 offered;

4 (H) the willingness of a developer, association,
5 or managing entity to:

6 (i) agree to the transfer or termination of
7 a timeshare interest; or

8 (ii) execute instruments necessary to
9 transfer or terminate the timeshare interest; or

10 (I) the manner in which consideration or
11 reimbursements paid by a timeshare interest owner will be used or
12 applied; or

13 (3) encouraging or inducing a timeshare interest owner
14 to stop paying the developer, the association, or the managing
15 entity in violation of a contract with the developer, the
16 association, or the managing entity before the completion of a
17 transfer or termination.

18 Sec. 221.111. SUPERVISORY DUTIES. (a) The person who
19 enters into an agreement to facilitate the transfer or termination
20 of a timeshare interest shall supervise, manage, and control all
21 aspects of the services provided under the agreement.

22 (b) Any violation of this subchapter that occurs during the
23 provision of services is considered a violation by the person who
24 enters into the agreement and any affiliate, agent, or third-party
25 representative of that person.

26 (c) Section 221.035 does not apply to a person providing
27 services under this subchapter.

1 SECTION 3. (a) The disclosure and notice requirements
2 provided by Subchapter J, Chapter 221, Property Code, as added by
3 this Act, apply only to an agreement to facilitate the transfer or
4 termination of a timeshare interest entered into on or after the
5 effective date of this Act. An agreement to facilitate the transfer
6 or termination of a timeshare interest entered into before the
7 effective date of this Act is governed by the law as it existed
8 immediately before the effective date of this Act, and that law is
9 continued in effect for that purpose.

10 (b) Section 221.110, Property Code, as added by this Act,
11 applies only to conduct that occurs on or after the effective date
12 of this Act. Conduct that occurs before the effective date of this
13 Act is governed by the law as it existed when the conduct occurred,
14 and the former law is continued in effect for that purpose.

15 SECTION 4. This Act takes effect September 1, 2015.